

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 14261 of 2004

Between:

Devireddy Gopal Reddy, S/o. Gopi Reedy,

Aged about 60 years, Gudem Village,

Badvel Mandal, Cuddapah District.

..... PETITIONER

AND

1. The Government of Andhra Pradesh, Department
Of Home, rep. by its Principal Secretary, Secretariat, Hyderabad.
2. The Director General of Police, Lakidikapool, Hyderabad.
3. The Superintendent of Police, Cuddapah, Cuddapah Dt
4. The Deputy Superintendent of Police, Cuddapah, Cuddapah dt.
5. The Circle Inspector of Police, Badwel, Badwel Mandal,
Cuddapah District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus, declaring the inaction on the part of the respondents 1 to 3 in

considering the representation dated 31-07-2004 made by the petitioner as arbitrary, abdication of the statutory duty cast on them and violative of the fundamental rights guaranteed to the petitioner under Article 14 of the Constitution of India and consequently direct the respondents 1 to 3 consider the representation dated 31-07-2004 and appoint an independent investigating officer with regard to CrimeNo.74 of 2004 on the file of Badwel Police Station, Badwel, Badwel Mandal, Cuddapah district.

Counsel for the Petitioner: MR. V.R. Reddy Kovuri

Counsel for the Respondents : GP FOR HOME

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.14261 OF 2004

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ORAL ORDER :

This writ petition is filed seeking a declaration that the alleged inaction on the part of the respondents 1 to 3 in considering the representation of the petitioner dated 31-07-2004 for appointment of an independent investigation officer with regard to Crime No.74 of 2004 on the file of Badvel Police Station is arbitrary and illegal.

The petitioner states that he lodged a complaint with the Station House Officer, Badvel Police Station, Badvel on 08-07-2004 alleging that his son-in-law by name Rama Subba Reddy killed his daughter and grand-daughter on the night of 07-07-2004. In the complaint, it was alleged that his daughter was married to the said Rama Subba Reddy and out of the wedlock she was blessed with one daughter. It

was alleged that at the time of the marriage, he gave a sum of Rs.60,000/- as dowry apart from 20 tulas of Gold and thereafter a sum of Rs.1,50,000/- was deposited in the Bank in the name of his daughter apart from the fixed deposits in the post office to the tune of Rs.40,000/-. However, Rama Subba Reddy started harassing his daughter for additional dowry and forced his daughter to withdraw the deposits from the Bank. On 07-07-2004 Rama Subba Reddy quarrelled with his wife with regard to the amounts in deposit in the Bank and thereafter they slept inside the house. In the early hours around 3.00 a.m. it was found that both his daughter and grand-daughter were hanged to death and Rama Subba Reddy who opened the door fled away from the scene. They suspected that the said Rama Subba Reddy killed them and thereafter hanged their bodies and accordingly a complaint was lodged on 08-07-2004 with Badvel P.S. On the basis of the same, Crime No.74 of 2004 was registered under Sections 302 and 304-B of the Indian Penal Code. The accused was arrested on 08-07-2004 itself, however, he was released even without producing before the concerned Court. It is alleged that the 5th respondent – Circle Inspector of Police, Badvel gave reckless and evasive replies when the petitioner along with others approached him and questioned why the accused was let off. Thereafter, the petitioner made a representation dated 31-07-2004 before the respondents 1 to 3 complaining about the inaction of the respondents 4 and 5 and requesting to appoint an independent investigating officer since the respondents 4 and 5 are in collusion with the accused are trying to screen the evidence. Though the said representation was received by the respondents 1 to 3, they failed to take any action. Hence, this writ petition seeking a Writ of Mandamus declaring the alleged inaction on the part of the respondents 1 to 3 in considering the representation of the petitioner dated 31-07-2004 as arbitrary and illegal and for a consequential direction to appoint an independent investigating officer with regard to Crime No.74 of 2004 on the file of P.S. Badvel.

The 5th respondent – Circle Inspector of Police, Badvel, who is the investigating officer filed a counter-affidavit stating that on the basis of the complaint of the petitioner Crime No.74 of 2004 was registered and he took up the investigation. Since the death of the deceased took place within seven years of marriage, he sent a requisition to the Mandal Revenue Officer, Badvel for holding inquest over the dead bodies and accordingly the inquest was held by the Mandal Revenue Officer

on 08-07-2004, during which the Mandal Revenue Officer examined the relatives of the complainant and recorded their statements. The Sub-Divisional Police Officer, Mydukur visited the scene of offence on 08-07-2004 and on a perusal of the First Information Report, the 5th respondent was directed to take up the investigation. Accordingly, the 5th respondent inspected the scene of offence on 08-07-2004 itself and drafted Panchanama. Later, he secured the presence of the witnesses and recorded their statements. The autopsy over the dead bodies was conducted by a team of Doctors at Government Hospital, Badvel on 08-07-2004 and in the postmortem, no external injuries or struggle marks were found. The Doctors preserved the Ligature mark skin around the neck and hyoid bones of deceased and sent for Histo-Pathological Expert, Medical College, Kurnool and kept pending their final opinion with regard to the cause of death of the deceased for want of Histo-Pathological Report.

The 5th respondent further stated that during the investigation, he has examined as many as 13 witnesses, during which it was found that the daughter of the petitioner had withdrawn Rs.45,000/- from the Post Office and the deceased and her husband decided to go to Badvel, however the petitioner and his wife objected stating that if she goes along with her husband, there would be no one to look after them and in that connection on 07-07-2004 an altercation took place between the petitioner and his wife with the deceased. Though the petitioner's husband was present, he did not support his wife, due to which the deceased felt insulted and killed her infant daughter and herself committed suicide. The Histo-Pathological report of the deceased has been received on 30-07-2004 from the Professor and Head of the Department of Forensic Medicine, Medical College, Kurnool stating that the Hyoid bone is normal and ante-mortem in nature in respect of both the deceased. Basing on the same, the final opinion with regard to the cause of death from the Medical Officer, Government Hospital, Badvel is yet to be received. Thus, the allegations of the complainant about the harassment by his son-in-law are found to be false. It was further stated that since no prima facie case is established against the petitioner's son-in-law, who is the suspect-accused, he has not been arrested so far. The other allegations have been denied and it is stated that since the investigation is pending, the necessary action will be taken strictly in accordance with law.

The third respondent – Superintendent of Police, Kadapa filed a separate counter-affidavit on the same lines and further stating that the final opinion of the team of Medical Officers has been received stating that the deceased No.1 died of Asphyxia due to suicidal hanging and the deceased No.2 died due to strangulation. So far as the representation of the petitioner dated 31-07-2004, it has been stated that on receipt of the same, he has conducted the enquiry and also perused the C.D. file of the crime and found that there are no lapses on the part of the respondents 4 and 5 in conducting the investigation and that there is no collusion of the respondents 4 and 5. The allegations that the accused in the above crime has exerted pressure of higher-ups on the respondents 4 and 5 and that the respondents 4 and 5 with the connivance of the accused are tampering the evidence and record to save the accused have been denied. It is further stated that the final report from the Circle Inspector of Police, Badvel circle is yet to be received and the question of entrusting the investigation to some other investigating officer at this stage does not arise.

As can be seen from the affidavits filed by the petitioner in reply, the main objection raised by the petitioner is that since the investigating officer failed to arrest the accused and that since the respondents 3 and 5, even before concluding the investigation have taken a specific stand in the counter-affidavit that the allegations levelled against the accused do not attract the ingredients of Section 304-B of the Indian Penal Code, it should be taken that the respondents 3 to 5 are trying to help the accused in the crime and therefore a fair investigation cannot be expected. Thus, he seeks that the investigation be entrusted to another independent investigating officer.

Having regard to the facts and circumstances of the case and on the basis of the submissions made by the learned Counsel for both the parties, it appears that several allegations made by the petitioner with regard to the alleged lapses committed by the investigating officer, require a detailed enquiry by a responsible officer of a higher rank.

In the circumstances, without expressing any opinion with regard to the

correctness of the allegations made by the petitioner, I deem it appropriate to dispose of the writ petition with a direction to the 2nd respondent – Director General of Police, Hyderabad to look into the matter and after conducting the necessary enquiry with regard to the investigation already conducted in Crime No.74 of 2004 of P.S. Badvel to pass appropriate orders with regard to the request of the petitioner to entrust the investigation to any other investigating officer. Such exercise shall be made as expeditiously as possible preferably within a period of four weeks from the date of receipt of this order.

The Writ Petition is accordingly disposed of. No costs.

11th October, , 2004.

Note:- Cc in two days.

(B/O)

Gbs

To

1. The Principal Secretary, Government of Andhra Pradesh, Department Of Home, Secretariat, Hyderabad.
2. The Director General of Police, Lakidikapool, Hyderabad.
3. The Superintendent of Police, Cuddapah, Cuddapah Dt
4. The Deputy Superintendent of Police, Cuddapah, Cuddapah dt.
5. The Circle Inspector of Police, Badwel, Badwel Mandal,
Cuddapah District.
6. Two CCs to G.P. for Home, High Court of AP Bldgs, Hyderabad(OUT).
7. Two CD copies

